Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of a Grant Program for Remote Community Alert Systems Pursuant to Section 605(a) of the Warning, Alert, and Response Network (WARN) Act	)	PS Docket No. 07-8

DECLARATORY RULING

Adopted: April 11, 2007 **Released: April 11, 2007**

By the Commission:

I. INTRODUCTION AND BACKGROUND

1. In this Declaratory Ruling, we interpret the phrase "remote communities effectively unserved by commercial mobile service," as required by Section 605(a) of the Warning, Alert, and Response Network (WARN) Act.[1]

2. The WARN Act requires the Commission to establish an advisory committee to develop recommendations regarding standards for commercial mobile service providers' transmission of emergency alert messages on a voluntary basis to their customers, and to conduct a rulemaking, taking into consideration such recommendations.[2] The WARN Act also requires the establishment of a grant program to fund outdoor alerting technologies for remote communities lacking commercial mobile service, and requires the FCC to interpret the term "remote communities effectively unserved by commercial mobile service." Specifically, Section 605(a) of the WARN Act provides:

> The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of Homeland Security, shall establish a program under which grants may be made to provide for outdoor alerting technologies in remote communities effectively unserved by commercial mobile service (as determined by the Federal Communications Commission within 180 days after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive emergency alerts.[3]

3. On January 23, 2007, the Commission released a public notice seeking comment on how we should interpret the phrase "remote communities effectively unserved by commercial mobile service," as required by Section 605(a).[4] For the reasons discussed below, we find that: (1) a "remote" area consists of a county with a population density of 100 persons per square mile or less, based upon the most recently available Census data; (2) "commercial mobile service" means those services that are required to provide

[1] Warning, Alert, and Response Network (WARN) Act, 47 U.S.C. §§ 1201-1205. The WARN Act was enacted as Title VI of the Security and Accountability For Every Port Act of 2006 (SAFE Port Act), Pub. L. No. 109-347, 120 Stat. 1884 (2006), which was signed into law by President Bush on October 13, 2006.

[2] *See* WARN Act, §§ 601 *et seq*.

[3] *Id*. § 605(a).

[4] The Commission Seeks Comment on Implementation of a Grant Program for Remote Community Alert Systems Pursuant to Section 605(a) of the Warning, Alert, and Response Network (WARN) Act, PS Docket No. 07-8, *Public Notice*, 22 FCC Rcd 1045 (2007) (*Public Notice*). Comments were due on February 6, 2007, and reply comments on February 22, 2007. *Id.* A list of commenters is provided in the Appendix.

E911 service in accordance with Section 20.18 of the Commission's rules; and (3) "effectively unserved" identifies "remote communities" that do not receive "commercial mobile service" as demonstrated by coverage maps, technical analyses, field tests, or any other reasonable means.

II. DISCUSSION

4. In this section, we define the phrases "remote communities," "commercial mobile service," and "effectively unserved" as used in Section 605(a) of the WARN Act.

5. *"Remote Communities."* In the *Public Notice,* the Commission asked whether applying the definition of "rural area," which the Commission had previously defined for purposes of facilitating deployment of wireless services in rural areas, to the WARN Act's phrase "remote communities" would satisfy the policy purposes envisioned by Congress in establishing the grant program under Section 605(a).[5] The Commission previously defined "rural areas" as "those counties (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data."[6] In the *Public Notice*, the Commission invited comment on this definition and other possible interpretations of the term "remote communities."[7]

6. *Comments.* AT&T and MC/LM support utilizing the Commission's definition of "rural area" to define "remote communities."[8] AT&T notes that neither the WARN Act nor its legislative history defines "remote communities."[9] TDI states that the Commission's definition of "remote communities effectively unserved by commercial mobile service" should be read "as broadly as possible, given the vital public interest served by policies associated with emergency alerting systems."[10] CCDTF agrees that this phrase should be interpreted "broadly," and adds that the Commission's definition of "rural area" is "too narrow in scope" and may cause the grant program "to miss serving households and groups of persons, or persons living alone, with disabilities who due to their disability, may in fact live remote lives but in higher density areas."[11]

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[5] *Public Notice* at 2.

[6] *See* Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation, WT Docket No. 03-202, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 19078, 19087 ¶ 11 (2004) (*Rural R&O*).

[7] *Public Notice* at 2.

[8] Comments Filed by AT&T Inc. on behalf of its affiliate, AT&T Mobility LLC, PS Docket No. 07-8, at 1 (filed Feb. 6, 2007) (AT&T Comments); Comments Filed by Maritime Communications/Land Mobile, LLC PS Docket No. 07-8, at 1 (filed Feb. 6, 2007) (MC/LM Comments).

[9] AT&T Comments at 2. MC/LM also points out that, as a provider of Automated Maritime Telecommunications System services, its authorized service area includes areas with population densities of 100 persons per square mile or less. MC/LM Comments at 1.

[10] Reply Comments Filed by Telecommunications for the Deaf and Hard of Hearing, Inc.; Association of Late-Deafened Adults; California Coalition of Agencies Serving the Deaf and Hard of Hearing; Deaf & Hard of Hearing Consumer Advocacy Network; Hearing Loss Association of America; and National Association for the Deaf, PS Docket No. 07-8, at 2 (filed Feb. 22, 2007) (TDI Reply Comments).

[11] Comments Filed by Consortium for Citizens with Disabilities Task Force on Telecommunications and Technology, PS Docket No. 07-8, at 1, 2 (filed Feb. 6, 2007) (CCDTF Comments).

7. AAPC states that the definition of "rural area" is "the proper starting point," but believes that actual applicants under the grant program will more likely be political subdivisions of rural areas, "such as incorporated villages, towns or cities, or townships or their equivalent," as opposed to the counties themselves.[12] Accordingly, AAPC suggests that "remote communities" should be defined as these political subdivisions.[13]

8. *Discussion.* We adopt our *Public Notice* proposal to apply the definition of "rural area" for the purpose of determining whether a "community" is "remote" under the WARN Act. In reaching the definition of "rural area" in the context of the *Rural R&O*, the Commission recognized that a comprehensive definition of "rural area" may not be appropriate for all purposes.[14] The Commission therefore decided to treat the definition of "rural area" as "a presumption that will apply for current and future Commission . . . rules, policies and analyses for which the term . . . has not been expressly defined."[15] The Commission stated that the presumption would "maintain continuity with respect to existing definitions of 'rural' that have been tailored to apply to specific policies, while also providing a practical guideline."[16] The policy principles underlying the Commission's definition of "rural area" are equally relevant for purposes of implementing Section 605(a) of the WARN Act. Accordingly, we find that it is appropriate to apply the same definition of "rural area" to define a "community" that is "remote."

9. Although the Commission considered several potential definitions for "rural area," in the *Rural R&O*,[17] it adopted the current definition because it was neither difficult to administer nor "so narrowly tailored to only include what many refer to as the most rural areas."[18] Specifically, the Commission noted that a definition based on county boundaries is "easy to administer and understand, population data based on county boundaries are widely available to the public, and county boundaries rarely change."[19] The Commission also noted that "the total population of the counties that fall within this definition of 'rural area' closely tracks the Census Bureau's overall population for non-urban areas."[20]

10. While AAPC may be correct that grant applicants could include the political subdivisions of counties, we are not persuaded that the nature of the potential grant applicant should be determinative

[12] Reply Comments Filed by American Association of Paging Carriers, PS Docket No. 07-8, at 2 (filed Feb. 22, 2007) (AAPC Reply Comments).

[13] *Id.*

[14] *Rural R&O*, 19 FCC Rcd at 19087 ¶ 12.

[15] *Id.*

[16] *Id.*

[17] *See id.* at 19085-86 ¶ 9. The Commission sought comment on the following potential definitions: (1) counties with a population density of 100 persons or fewer per square mile; (2) Rural Service Areas (RSAs); (3) non-nodal counties within an Economic Area (EA) as defined by the Department of Commerce's Bureau of Economic Analysis; (4) the definition for "rural" used by the Rural Utilities Service for its broadband loan program; (5) the definition for "rural area" used by the Commission in connection with universal service support for schools, libraries, and rural health care providers; (6) the definition of "rural" based on census tracts as outlined by the Economic Research Service of the USDA; (7) the Census Bureau definition of "rural" counties; and (8) any census tract that is not within 10 miles of any incorporated or census-designated place containing more than 2,500 people, and is not within a county or county equivalent that has an overall population density of more than 500 persons per square mile of land. *Id.*

[18] *See id.* at 19087 ¶ 11.

[19] *Id.*

[20] *Id.*

of the definition of "remote community." As explained above, the definition of "rural area" is clear, and thus readily applied. AAPC's proposal, on the contrary, would lead to a "definition" that would encompass as many variables as there are political subdivisions within the United States, leading to a standard that would be difficult to apply. Because AAPC provides no specifics, quantitative data or other criteria to support its position, we must reject AAPC's proposal.

11. We also disagree with TDI's and CCDTF's arguments that we should interpret this phrase more broadly. Employing a county-sized basis for defining "remote" areas affords a sufficiently wide enough scope to carry out the objectives of Section 605(a). While we understand that persons with disabilities can be "isolated" even when located in an area not considered "remote,"[21] these concerns are unrelated to the specific issue of defining "remote communities" for purposes of the WARN Act. Generally, the grant program is targeted to ensure that alerts can be provided in the absence of alternative commercial mobile communications means. CCDTF addresses "higher density areas" that have alternative commercial mobile communications options for alerts, and are thus by definition are beyond the scope of what constitutes a remote community.

12. We recognize, however, that persons with disabilities have unique needs concerning emergency alerts that should be addressed, whether located in "remote communities" or otherwise. In this regard, we note that the Commission's Commercial Mobile Service Alert Advisory Committee (CMSAAC), which was formed pursuant to Section 603(c) of the WARN Act, is in the process of formulating recommendations on technical standards and protocols to facilitate the ability of commercial mobile service providers to transmit emergency alerts to their subscribers.[22] We therefore direct the Chief, Public Safety and Homeland Security Bureau, to place the comments filed by TDI and CCDTF in this proceeding into the CMSAAC record, so that the issues raised by these commenters may be considered in that docket.

13. For the foregoing reasons, we conclude that communities are "remote" under the WARN Act where those communities are located in "counties (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data."[23] This decision strikes the appropriate public interest balance and best ensures that the benefits of the grant program are achieved consistent with the WARN Act.

14. *"Commercial Mobile Service."* In the *Public Notice,* the Commission asked whether it should define "commercial mobile service" as "commercial mobile radio service" (CMRS) for purposes of implementing Section 605(a).[24] The *Public Notice* also sought comment on other possible

[21] *See* CCDTF Comments at 2.

[22] The WARN Act requires the Commission to establish an advisory committee to develop and submit to the Commission system-critical recommendations. WARN Act, § 603(c). On December 5, 2006, pursuant to Section 603(c) of the WARN Act, the Public Safety and Homeland Security Bureau released a public notice announcing the appointment of persons to serve as members of the Commission's Commercial Mobile Service Alert Advisory Committee. *See* Notice of Appointment of Members to the Commercial Mobile Service Alert Advisory Committee; Agenda for December 12, 2006 Meeting, *Public Notice,* 21 FCC Rcd 14175 (2006).

[23] *Rural R&O*, 19 FCC Rcd at 19087 ¶ 11.

[24] *Public Notice* at 2. Section 20.3, 47 C.F.R. § 20.3, defines a commercial mobile radio service as a mobile service that is:

(a)(1) Provided for profit, *i.e.,* with the intent of receiving compensation or monetary gain;
(2) An interconnected service; and
(3) Available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or
(b) The functional equivalent of such mobile service described in paragraph (a) of this section.

interpretations of "commercial mobile service."[25] In the *Public Notice,* the Commission noted that Section 602(b)(1)(A) of the WARN Act specifically defines "commercial mobile service" by cross-reference to Section 332(d)(1) of the Communications Act of 1934, as amended.[26]

15. *Comments.* AT&T argues that, because the Commission has "long defined 'commercial mobile service' for purposes of Section 332 as CMRS," the Commission should also define "commercial mobile service" as CMRS for purposes of Section 605(a).[27] However, noting that the definition of CMRS encompasses mobile satellite service (MSS),[28] which may have nationwide coverage, AT&T and AAPC argue that, for purposes of Section 605(a), MSS should be excluded from the definition of "commercial mobile service" because its inclusion would mean that few, if any, "remote communities" would be deemed "effectively unserved."[29] AAPC also contends that CMRS providers licensed under the Air-Ground Radiotelephone Service and Offshore Radio Telephone Service should be excluded from the definition of commercial mobile service.[30]

16. On the other hand, MC/LM opposes use of the definition of CMRS, arguing that, because the WARN Act "specifically directs the Commission to use the definition of Section 332(d)(1)," the Commission should "use only the exact definition of Section 332(d)(1)."[31] MC/LM also opposes use of the definition of CMRS contained in Section 20.3 of the Commission's rules because that definition includes radio services that are the "functional equivalent" of CMRS and is thus broader than Section 332(d)(1)'s definition.[32]

17. *Discussion.* For purposes of Section 605(a) of the WARN Act only, we define the phrase "commercial mobile service" to include only those services that are required to provide E911 service in accordance with Section 20.18 of the Commission's rules.[33] This interpretation of the statutory language

[25] *Public Notice* at 2.

[26] *Id.*; WARN Act, § 602(b)(1)(A) (citing 47 U.S.C. § 332(d)(1) ("commercial mobile service means any mobile service [ ] that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission")).

[27] AT&T Comments at 2-3; *see also* AAPC Comments at 3 (arguing that the definition of CMRS in Section 20.9 of the Commission's rules should be the starting point for defining "commercial mobile service").

[28] AT&T Comments at 3. Mobile Satellite Service is defined as a radiocommunication service: (1) Between mobile earth stations and one or more space stations, or between space stations used by this service; or (2) Between mobile earth stations by means of one or more space stations. This service may also include feeder links necessary for its operation. 47 C.F.R. § 25.201.

[29] AT&T Comments at 3 (referring to the inclusion of MSS as specifically enumerated in 47 C.F.R. § 20.9); AAPC Reply Comments at 3.

[30] AAPC Reply Comments at 3-4.

[31] MC/LM Comments at 2.

[32] *Id.* (citing 47 C.F.R. § 20.3(b)). We note that rather than offering specific comments in regard to the appropriate definition of "commercial mobile service," CCDTF and TDI stress that the methods by which emergency notifications are provided should be made available to as many persons as possible. In particular, TDI states that reliance on a single audible warning "will provide little or no warning to persons with hearing loss that are unable to hear such warnings." TDI Reply Comments at 2, 3. CCDTF states that the devices should be interoperable to enable persons with all kinds of disabilities to access and understand emergency alert systems. CCDTF Comments at 2. Because the issues raised by CCDTF and TDI are related to the ongoing work of the CMSAAC, we incorporate their comments in the record being developed by the CMSAAC. *See supra* para. 12.

[33] *See* 47 C.F.R. § 20.18(a) (identifying the services that are subject to the Commission's wireless 911 rules).

is consistent with the purposes of the WARN Act and with the record in this proceeding. We agree with commenters that certain services that satisfy the Commission's definition of CMRS – particularly MSS – should not be included in the WARN Act's definition of "commercial mobile service."[34] Compared to terrestrial-based systems, MSS can offer nationwide coverage, or, by some accounts "complete coverage of the earth."[35] As a result, it would be difficult, if not impossible, for a grant applicant to prove that none of its community members have access to "commercial mobile service." We thus find that the objectives of the grant program could not be achieved if current MSS offerings were included in the definition of commercial mobile service.[36]

18. Because including current MSS offerings in the definition of "commercial mobile service" could render meaningless the grant program of Section 605(a), we cannot equate "commercial mobile service" with the Commission's definition of CMRS for purposes of the WARN Act.[37] By contrast, defining "commercial mobile service" to include only those services identified in Section 20.18(a) of the Commission's rules addresses commenters' concerns and creates a reasonable burden of proof for grant applicants. Furthermore, defining "commercial mobile service" to include only carriers that are obligated to provide E911 service focuses limited resources on communities that need them most: namely, those communities that have no access to wireless E911 service. For all of these reasons, we believe that the most reasonable interpretation of "commercial mobile service" for purposes of the WARN Act is those services that are identified in Section 20.18(a) of the Commission's rules.

19. We reject MC/LM's argument that the Commission must employ the exact definition contained in Section 332(d)(1) of the Act. Like Section 20.9 of our rules, the Section 332(d)(1) definition also includes the type of ubiquitous MSS service that, if included in the Section 605(a) definition of "commercial mobile service," would render the grant program authorized by Section 605 a nullity.[38]

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[34] Section 20.9 enumerates several mobile services that are regulated as CMRS, including MSS. 47 C.F.R. § 20.9.

[35] *See* AT&T Comments at 3 n.12 (citing website materials of MSS operators Iridium and Globalstar).

[36] MSS carriers currently provide 911 services primarily for hand held telephones. These services do not involve "enhanced" 911 functionalities. The question of E911 requirements for MSS carriers is the subject of a separate proceeding. *See* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340 (2003) ("*E911 Scope Report and Order and Second Further Notice*").

[37] Our interpretation of "commercial mobile services" also addresses AAPC's argument that Air-Ground Radiotelephone Service and Offshore Radiotelephone Service should be excluded from the definition of "commercial mobile service" for purposes of implementing Section 605(a). AAPC Reply Comments at 3-4. The Air-Ground Radiotelephone Service allows CMRS providers to offer wireless services to subscribers on board aircraft. *See* Amendment of Part 22 of the Commission's Rules to Benefit the Consumers of Air-Ground Telecommunications Services, WT Docket No. 03-103, *Report and Order and Notice of Proposed Rule Making*, 20 FCC Rcd 4403 (2005). The Offshore Radiotelephone Service provides telephone service to subscribers located on oil exploration and production platforms in the Gulf of Mexico. *See* 47 C.F.R. § 22.99. Accordingly, neither of these services would typically be available in the areas targeted by the grant program, and thus are appropriately excluded from the definition of "commercial mobile service."

[38] *See* Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, *Report and Order* in IB Docket No. 99-81, 15 FCC Rcd 16127, 16173 (2000) (stating that if MSS "is offered to the public as described in [Section 332(d)(1) of] the Communications Act, service to the end user of the service would fall within the statutory definition of CMRS" (footnotes omitted)); Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands, *Report and Order and Notice of Proposed Rulemaking* in IB Docket Nos. 01-185 and 02-364, 18 FCC Rcd 1962, 2073-75 (2003) (reiterating that MSS service would meet the Section 332(d)(1) definition of "commercial mobile service" if the service was an interconnected, for-profit service made available to a substantial portion of the public).

While Congress required the Commission to use the Section 332(d)(1) definition of commercial mobile service for purposes of Section 602 of the WARN Act, such a requirement is nowhere to be found in Section 605. Rather, Congress specifically directed the Commission to define the term "remote communities effectively unserved by commercial mobile service," thus providing the Commission with the authority to develop an appropriate definition of, among other terms, "commercial mobile service." This difference is not surprising in light of the different objectives of Sections 602 and 605. Our charge is to interpret the entire phrase in Section 605 that is under consideration in this Declaratory Ruling holistically, and with the purpose of the grant program in mind. Accordingly, we believe we must exercise our expertise in identifying which services falling under the Commission's CMRS definition are appropriately included in the definition of "commercial mobile services" for purposes of Section 605(a).

20. *"Effectively Unserved."* In the *Public Notice,* the Commission sought comment on possible interpretations of "effectively unserved" and whether "effectively unserved" means that commercial mobile services are not available to any consumers in a "remote community," a significant portion of consumers, or some portion of consumers.[39] The Commission also asked how applicants should demonstrate the unavailability of commercial mobile services, and whether a variety of means should be used, such as coverage maps from service providers, technical analyses, field tests, or subscriber levels.[40]

21. *Comments.* MC/LM proposes that a remote community should be considered "effectively unserved" if fewer than two competing CMRS providers offer service or if 100 subscriber units or less are actually receiving service.[41] AAPC argues that a remote community served by a CMRS provider that does not in fact distribute emergency alerts should be deemed "effectively unserved" for purposes of the WARN Act.[42]

22. Regarding evidence of service, AT&T argues that the grantor should determine the unavailability of CMRS based on marketing maps made available on carrier websites.[43] AAPC further requests that CMRS providers, particularly smaller carriers, should be able to demonstrate that they serve a remote community with traditional coverage maps in addition to web-based maps.[44] In addition to coverage maps, CCDTF believes that a wide variety of means such as "technical analyses, field tests, and subscriber levels or other available information" should be used.[45] AAPC argues that the grantor should post lists of communities seeking grants so that carriers in those areas have an opportunity to demonstrate that they do in fact serve those communities.[46]

23. *Discussion.* We conclude that the phrase "effectively unserved" modifies "remote communities," and that this language identifies "remote communities" that do not receive "commercial

[39] *Public Notice* at 2.

[40] *Id.*

[41] MC/LM Comments at 2.

[42] AAPC Reply Comments at 5-6.

[43] AT&T Comments at 3-4; *see also* AAPC Reply Comments at 5.

[44] AAPC Reply Comments at 5.

[45] CCDTF Comments at 3. CCDTF adds that, because many persons with hearing disabilities lack broadband connections, "information from relay services providers may be useful in aggregating the unserved." Because CCDTF's comments are more appropriately addressed by the CMSAAC, we specifically refer its comments in this section to the CMSAAC record consistent with our treatment of other portions of its comments filed in this docket. *See supra* para. 12.

[46] AAPC Reply Comments at 5-6.

mobile service." We find that a remote community can demonstrate that it is "effectively unserved" by using coverage maps from service providers, technical analyses, field tests or any other reasonable means.

24. Determining whether a community is "effectively unserved" necessarily will be a fact-specific exercise in many cases. As AT&T notes, this phrase is not defined in the WARN Act or in the legislative history.[47] However, we offer certain guidelines that will assist in making such determinations. We find that the number of commercial mobile service providers in a given remote area should not serve as a metric. Even a single carrier should suffice. Further, the number of subscribers should not be determinative. While the number and location of commercial mobile service subscribers could serve as an indicator of where commercial mobile service coverage may be available, there are reasons other than coverage, including individual consumer choices, that could influence subscribers levels within a given remote area.

25. Coverage maps provided by carriers, whether for marketing purposes such as those displayed on a website, or prepared specifically for grant program purposes, would be a useful source of information on service availability. First, coverage maps can be easily obtained or produced, and also would serve as a simple, yet effective and objective means to immediately identify areas that are "effectively unserved." Second, as suggested by CCDTF and as proposed in the *Public Notice*, we find that other means, such as technical analyses and field tests, also are useful tools, and can be employed when creating coverage maps. We otherwise find no basis to develop bright line tests, such as by percent of population or land area served. Rather, we find that the better course of action would be to first determine, following analysis of data describing where coverage exists in a given community, the number of consumers that live, work, or travel in areas without coverage. Decisions concerning applications for grants could then be made on a case-by-case basis, based on the relative needs of the "effectively unserved" areas so identified.

26. We conclude that the guidance we provide above best fulfills our obligations under Section 605(a). With regard to whether procedural requirements or other conditions may be required to implement the grant program under Section 605(a), we note that Section 605(b)(2) expressly provides the Under Secretary of Commerce for Oceans and Atmosphere (Under Secretary) with discretionary authority to "establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program."[48] Because the WARN Act gives this authority to the Under Secretary, not to the Commission, we find it is not appropriate to address here CCDTF's suggestion that grantees of the program should be required to work with state and local entities serving people with disabilities,[49] or AAPC and MC/LM's requests that lists of communities seeking grants under Section 605(a) be posted.[50] At this juncture, we take this opportunity to underscore our long-standing and ongoing commitment to ensuring that persons with disabilities have equal access to public warnings and are considered in emergency preparedness planning.[51]

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[47] AT&T Comments at 3.

[48] WARN Act, § 605(b)(2).

[49] CCDTF Comments at 3-4.

[50] AAPC Reply Comments at 5; MC/LM Comments at 3.

[51] *See* Review of Emergency Alert System, *First Report and Order and Further Notice of Proposed Rulemaking,* EB Docket No. 04-296, 20 FCC Rcd 18625, 18654 ¶74 (2005); 47 C.F.R. §§ 73.1250, 79.1, 79.2, 79.3; *see also* Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons With Hearing Disabilities Using Closed Captioning, *Public Notice,* 21 FCC Rcd 15084 (2006).

III. ORDERING CLAUSES

27. Accordingly, IT IS ORDERED that, pursuant to Sections 1 and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 and 154(i), and Section 605(a) of the Warning, Alert, and Response Network Act, 47 U.S.C. § 1204(a), this Declaratory Ruling IS HEREBY ADOPTED as described herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

LIST OF COMMENTERS

Comments filed in Response to the Public Notice in PS Docket No. 07-8

Comments

AT&T Inc., on behalf of its affiliate, AT&T Mobility LLC (AT&T)

Consortium for Citizens with Disabilities Task Force on Telecommunications and Technology (CCDTF)

Maritime Communications/Land Mobile, LLC (MC/LM)

Reply Comments

American Association of Paging Carriers (AAPC)

Telecommunications for the Deaf and Hard of Hearing, Inc.; Association of Late-Deafened Adults; California Coalition of Agencies Serving the Deaf and Hard of Hearing; Deaf & Hard of Hearing Consumer Advocacy Network; Hearing Loss Association of America; and National Association for the Deaf (collectively, TDI)